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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

DOUGLAS ELLIOT PLACE,

Defendant and Appellant.

B210085

(Los Angeles County
Super. Ct. No. KA081515)

APPEAL from a judgment of the Los Angeles County Superior Court.

Jack P. Hunt, Judge. Affirmed with directions.

Sharon Fleming, under appointment by the Court of Appeal for Defendant and Appellant.

No appearance for Plaintiff and Appellant.

On December 17, 2007, Los Angeles County Sheriff's Department detective Anthony Valenzuela and his partner were performing random license plate checks, searching for warrants and stolen vehicles. They pulled behind a Honda, checked the license plate, and determined that the car was stolen. The detectives initiated a pursuit. The driver ran stop signs and traffic signals and drove on the wrong side of the road. The Honda eventually crashed into a wall. Valenzuela saw the driver get out of the car, run through an alley, and jump a cinder-block wall. The driver was apprehended and identified as appellant Douglas Place. Appellant left a "shaved Toyota key" in the Honda's ignition. The Honda's registered owner confirmed that the car had been stolen, and he did not know appellant.

On June 20, 2008, pursuant to a negotiated plea and following a full advisement of rights, Appellant pleaded nolo contendere to one count of unlawful driving or taking of a vehicle (Veh. Code, § 10851(a)), and one count of driving in willful or wanton disregard for the safety of persons or property while fleeing from a pursuing police officer (Veh. Code, § 2800.2(a)). Appellant also admitted a special allegation that he had sustained one prior conviction for a violation of Vehicle Code section 10851. He further admitted a special allegation pursuant to Penal Code section 1170.12, subdivision (a) through (d) and section 667, subdivision (b), that he had sustained a prior felony conviction for assault with a deadly weapon (Pen. Code, § 245, subdivision (a)(1).) Pursuant to the stipulated plea agreement, the court sentenced appellant to a prison term of five years and four months. Appellant waived all custody credits in accordance with the plea agreement.

The court assessed a \$200 victim restitution fund fine and a \$40 court security fund fine. The court also assessed a suspended parole revocation restitution fund fine of \$200. In addition, the court ordered appellant to provide DNA specimens and samples to the Los Angeles County Sheriff's Department pursuant to Penal Code section 296.

On July 31, 2008, appellant filed a notice of appeal and request for certificate of probable cause. The notice indicated that the appeal was based on the sentence or other matters occurring after the plea, and that the appeal challenged the validity of the plea. In support of his request for a certificate of probable cause, appellant indicated that although he pleaded no contest he did not believe he had a prior strike. Appellant asserted that he had received ineffective assistance of counsel on the prior strike issue.¹ On August 1, 2008, the court denied appellant's request for a certificate of probable cause.

We appointed counsel to represent Place on appeal. On November 21, 2008, Place's appointed counsel filed an opening brief which raised no issues. On November 24, 2008, we sent Place a letter inviting him to file a brief or letter raising any issues he wished us to consider. He has not filed any such letter or brief.

We note that the abstract of judgment indicates the imposition of a \$36 fine under Penal Code section 1202.5. Penal Code section 1202.5 was not applicable to this case, and the court did not assess such a fine. We therefore direct the trial court to correct this error.

From our independent review of the record, we are satisfied that appellant's counsel has fully complied with her responsibilities, and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

¹

Appellant stated: "I pleaded nolo contendere on this case with enhancements of an alleged strike. According to the records of my P.D. from my previous case . . . the case of which the prosecution from this case "claimed" I pleaded out to a strike. And to my own recollection, I do not have a strike. My current attorney did not assist me in challenging this matter. Ineffective assistance of counsel."

DISPOSITION

The judgment is affirmed. The trial court is directed to correct the abstract of judgment by removing the notation indicating the imposition of a \$36 fine under Penal Code section 1202.5. A certified copy of the corrected abstract of judgment is then to be forwarded to the Department of Corrections.

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BIGELOW, J.

We concur:

RUBIN, Acting P. J.

O'NEILL, J.^{*}

^{*} Judge of the Ventura Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.